

# DECLARATION

As a below named inventor, I declare that:

My residence, post office address and citizenship are as stated below next to my name; I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: **APERTURE PLATE AND METHODS FOR ITS CONSTRUCTION AND USE** the specification of which      is attached hereto or **X** was filed on September 9, 1999 as Application No. 09/392,180 and was amended on                      (if applicable).

I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56. I claim foreign priority benefits under Title 35, United States Code, Section 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

## Prior Foreign Application(s)

Country	Application No.	Date of Filing	Priority Claimed Under 35 USC 119

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

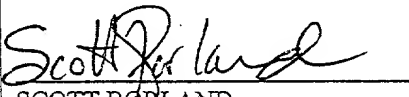
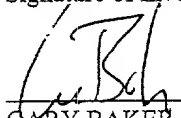
Application No.	Filing Date

I claim the benefit under Title 35, United States Code, Section 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, Section 1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application No.	Date of Filing	Status

Full Name of Inventor 1:	Last Name: <b>BORLAND</b>	First Name: <b>SCOTT</b>	Middle Name or Initial:	
Residence & Citizenship:	City: <b>San Mateo</b>	State/Foreign Country: <b>California</b>	Country of Citizenship: <b>United States</b>	
Post Office Address:	Post Office Address: <b>25 McAker Court, #135</b>	City: <b>San Mateo</b>	State/Country: <b>California</b>	Postal Code: <b>94403</b>
Full Name of Inventor 2:	Last Name: <b>BAKER</b>	First Name: <b>GARY</b>	Middle Name or Initial:	
Residence & Citizenship:	City: <b>Mountain View</b>	State/Foreign Country: <b>California</b>	Country of Citizenship: <b>United States</b>	
Post Office Address:	Post Office Address: <b>1375 Montecito Avenue, #52</b>	City: <b>Mountain View</b>	State/Country: <b>California</b>	Postal Code: <b>94043</b>

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signature of Inventor 1  SCOTT BORLAND	Signature of Inventor 2  GARY BAKER
Date 10/22/99	Date 11/3/99

DE 7004375 v1

POWER OF ATTORNEY BY ASSIGNEE

AEROGEN, INC. is the Assignee of the invention entitled: APERTURE PLATE AND METHODS FOR ITS CONSTRUCTION AND USE, the specification of which \_\_\_\_\_ is attached hereto or X was filed on September 9, 1999 as Application Serial No. 09/392,180.

Assignee hereby appoints the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

Lesley S. Craig, Reg. No. 26,578  
Darin J. Gibby, Reg. No. 38,464  
Chad S. Hilyard, Reg. No. 40,647  
Roger T. Barrett, Reg. No. 41,599  
William F. Vobach, Reg. No. 39,411  
Scott L. Ausenhus, Reg. No. 42,271  
Thomas D. Franklin, Reg. No. 43,616

Send Correspondence to:

Darin J. Gibby  
TOWNSEND and TOWNSEND and CREW  
LLP  
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San Francisco, CA 94111-3834

Direct Telephone Calls to:  
(Name, reg. no., tele. no.)

Darin J. Gibby  
Reg. No.: 38,464  
303/571-4000

AEROGEN, INC.

Date: NOV. 17 1999

By: Yehuda Ivri  
(Signature)

Name: Yehuda Ivri  
Title: Chief Technical Officer

CERTIFICATE UNDER 37 C.F.R. § 3.73(b)

Applicant: Scott Borland and Gary Baker

Application No.: 09/392,180

Filed: September 9, 1999

For: APERTURE PLATE AND METHODS FOR ITS CONSTRUCTION AND USE

AEROGEN, INC., a Delaware corporation

(Name of Assignee)

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

certifies that it is assignee of the patent application identified above by virtue of either:

A. ☒ An assignment from the inventor(s) of the patent application identified above for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application identified above, to the current assignee as shown below:

1. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the Patent and Trademark Office at  
Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.
2. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the Patent and Trademark Office at  
Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.
3. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the Patent and Trademark Office at  
Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ Copies of assignments or other documents in the chain of title are attached.


The undersigned (whose title is supplied below) is empowered to act on behalf of the assignee.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: October 22, 1999

Name: Yehuda Ivri

Title: Chief Technical Officer

Signature: 

DE 7006184 v1

ASSIGNMENT OF PATENT APPLICATION

JOINT

WHEREAS, Scott Borland, of 25 McAker Court, #135, San Mateo, CA 94403, Gary Baker, of 1375 Montecito Avenue, #52, Mountain View, CA 94043, hereinafter referred to as "Assignors," are the inventors of the invention described and set forth in the below-identified application for United States Letters Patent:

Title of Invention: APERTURE PLATE AND METHODS FOR ITS  
CONSTRUCTION AND USE

Filing Date: September 9, 1999

Application No.: 09/392,180 ; and

WHEREAS, AEROGEN, INC., a corporation of the state of Delaware, located at 1310 Orleans Drive, Sunnyvale, CA, 94089, hereinafter referred to as "ASSIGNEE," is desirous of acquiring an interest in the invention and application and in any U.S. Letters Patent and Registrations which may be granted on the same;

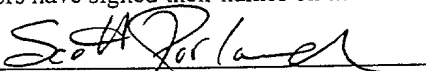
For good and valuable consideration, receipt of which is hereby acknowledged by Assignors, Assignors have assigned, and by these presents do assign to Assignee all right, title and interest in and to the invention and application and to all foreign counterparts (including patent, utility model and industrial designs), and in and to any Letters Patent and Registrations which may hereafter be granted on the same in the United States and all countries throughout the world, and to claim the priority from the application as provided by the Paris Convention. The right, title and interest is to be held and enjoyed by Assignee and Assignee's successors and assigns as fully and exclusively as it would have been held and enjoyed by Assignors had this Assignment not been made, for the full term of any Letters Patent and Registrations which may be granted thereon, or of any division, renewal, continuation in whole or in part, substitution, conversion, reissue, prolongation or extension thereof.

Assignors further agree that they will, without charge to Assignee, but at Assignee's expense, (a) cooperate with Assignee in the prosecution of U.S. Patent applications and foreign counterparts on the invention and any improvements, (b) execute, verify, acknowledge and deliver all such further papers, including patent applications and instruments of transfer, and (c) perform such other acts as Assignee lawfully may request to obtain or maintain Letters Patent and Registrations for the invention and improvements in any and all countries, and to vest title thereto in Assignee, or Assignee's successors and assigns.

Assignors hereby authorize and request Townsend and Townsend and Crew LLP, Two Embarcadero Center, 8<sup>th</sup> Floor, San Francisco, CA 94111-3834, to insert herein above the application number and filing date of said application when known.

IN TESTIMONY WHEREOF, Assignors have signed their names on the dates indicated.

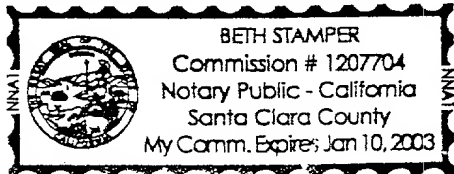
Dated: 11/3/99

  
Scott Borland

STATE OF CALIFORNIA     )  
                                  )     ss.  
COUNTY OF                 )

On November 3, 1999, before me, Beth Stamper, Notary Public, personally appeared Scott Borland, personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Beth Stamper  
NOTARY PUBLIC

My Commission Expires: Jan 10, 2003

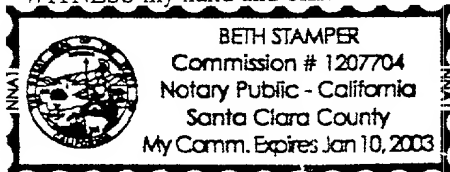
Dated: 11/3/99

Gary Baker  
Gary Baker

STATE OF CALIFORNIA )  
COUNTY OF ) ss.

On November 3, 1999, before me, Beth Stamper, Notary Public, personally appeared Gary Baker, personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Beth Stamper  
NOTARY PUBLIC

My Commission Expires: Jan 10, 2003